

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 191 - SB 170

March 26, 2021

**SUMMARY OF ORIGINAL BILL:** Requires the Commissioner of Economic and Community Development (ECD) to consult with the Commissioner of the Department of Revenue (DOR) regarding whether “good cause” exists for extending the three-year period for making the required capital investment for certain companies to maintain eligibility for excise tax credits earned through the purchase of industrial machinery.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

**SUMMARY OF AMENDMENT (006038):** Deletes all language after the enacting clause. Authorizes a taxpayer that has previously made a capital investment of at least \$1,000,000,000 during a single investment period, has previously qualified for the “qualified headquarters facility” sales and use tax apportionment, and that previously qualified for the election under Tenn. Code Ann. § 67-6-2012(1) but did not use it, to offset up to 100 percent of excise tax liability by the industrial machinery in Tenn. Code Ann. § 67-6-2009(3), if the Commissioners of DOR and ECD determine that increasing the percentage of offset liability above 50 percent, will allow the taxpayer to maximize the use of its industrial machinery credits while resulting in an excise tax liability equal to the amount otherwise due if the taxpayer had made the election originally under § 67-4-2012(1).

**FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Other Fiscal Impact – A significant decrease in state excise tax revenue in FY21-22; however, due to individual taxpayer confidentiality, a precise impact cannot be determined.**

Assumptions for the bill as amended:

- In the absence of this legislation, it is estimated that the taxes paid by the taxpayer who did not use the discounted election in Tenn. Code Ann. § 67-6-2012(1), that would now be able to recoup those funds would cause a significant decrease in excise tax revenue in FY21-22 in offering a credit in the same amount to this taxpayer.
- Excise tax is taxed at 6.5 percent of taxable income of a company.

- It is estimated that a taxpayer that has made a \$1,000,000,000 investment in one investment period has a substantial excise tax liability; however, the precise amount of income for such company and therefore the precise amount of excise tax due is unknown.
- The Fiscal Review Committee does not have access to individual taxpayer information; but any impact is generally determined to be a decrease in state revenue in FY21-22.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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